

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7736 OF 2004

M/s.Shiv Service Station Pvt.Ltd. Petitioner

versus

Maharashtra Industrial Development
Corporation and another Respondents

Milind Vasudev i/by A.G.Dambel, adv. for
petitioner.

P.P.Chavan i/by Little & Co, adv. for MIDC.
V.P.Malvankar, AGP for R-2.

CORAM : A.P.SHAH AND
 S.C.DHARMADHIKARI, JJ.

DATE : 16th October 2004

PC :

1. Heard advocates.

2. Petitioner is carrying business from Plot Nos.66 and 73 at MIDC, Chinchwad, Pune. As Plot No.65 adjoining to the petitioner's plot no.66 was vacant, the petitioner applied to MIDC for allotment of the same and paid 50% amount. It appears that Plot No.65 through mistake came to be allotted to some other party, and, therefore, MIDC offered an alternate plot to the petitioner at the same rate. The plot which was offered to the petitioner was of 400 sq. mtrs.. As the

petitioner was in need of a larger plot, the MIDC by allotment letter dated 8th September 1997 allotted Plot admeasuring 2,000 sq. mtrs to the petitioner, out of which 400 sq. mtrs. was to be allotted at old rate and 1,600 sq. mtrs. was to be allotted at the rate of Rs.2,475/- per sq. mtr.. The petitioner accepted the said allotment on 9th September 1997 and paid 50% of the amount being Rs.19.80 lakh. Petitioner's case is that upon payment of 50% of the amount, plot ought to have been allotted to the petitioner. The MIDC, however, by its letter dated 6th January 2000, 14th January 2000 and 20th March 2000 demanded the rate of Rs.3,250/- per sq. mtr. from the petitioner and hence this petition.

3. The entire matter is based on interpretation of clause 3 of the allotment letter. Clause 3 reads as follows :-

"3. The rate of premium payable in respect of the land in this area is Rs.2475/- per sq. mtr. If the rates are revised by the Corporation before receipt of your application or before the communication to you of the allotment in your favour, you will have to pay the premium at such revised rate."

Clauses 11 and 12 of the Allotment Letter further clarify that allotment will be issued subject to

withdrawal of petition and subject to condition that revision in the rate shall be made applicable. It appears that out of 2,000 sq. mtrs. area, an area of 400 sq. mtrs. was offered to the petitioner @ Rs.2,475/- per sq. mtr. i.e. at the old rate and remaining 1,600 sq. mtrs. area was offered @ Rs.3,250/- per sq. mtr.. Although the petitioner has deposited 50% of the amount, letter of allotment was not issued in favour of petitioner and, therefore, the MIDC was justified in charging the revised rate in accordance with clause 3 of the allotment letter.

4. We do not find any infirmity or illegality attached to the decision of MIDC.. We, therefore, dismiss the petition. However, petitioner is given eight weeks' time to make the balance payment. If the payment is made within said period, the MIDC shall execute the lease deed and put the petitioner in possession subject to compliance of formalities. Petition is accordingly disposed of.

(A.P.SHAH, J.)

(S.C.DHARMADHIKARI, J.)